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11 Attorneys for Defendant,

SEAGATE TECHNOLOGY LLC

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

16 IN RE SEAGATE TECHNOLOGY LLC
LITIGATION

18 CONSOLIDATED ACTION

Case No. 3:16-cv-00523-JCS

**DECLARATION OF SEK NAM "ALLEN"
NG IN SUPPORT OF SEAGATE
TECHNOLOGY LLC'S CONSOLIDATED
ADMINISTRATIVE MOTION TO SEAL
CERTAIN DOCUMENTS OR PORTIONS
THEREOF FILED IN CONNECTION
WITH PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

Second Consolidated Amended Complaint
filed: July 11, 2016

1 I, Sek Nam “Allen” Ng, declare as follows:

2 1. I am the Director of Customer Technical Support for the Americas Channel and
3 Original Equipment Manufacturers (“OEMs”) at Seagate Technology LLC (“Seagate”). Unless
4 otherwise indicated, I have personal knowledge of the facts set forth in this declaration, and if
5 called as a witness, could and would competently testify as to their truth.

6 2. I submit this declaration in support of Seagate’s Consolidated Administrative
7 Motion to Seal Certain Documents or Portions Thereof Filed in Connection with Plaintiffs’
8 Motion for Class Certification.

9 3. It is my understanding the following documents, filed in connection with the
10 briefing on the Class Certification Motion, attach, quote, or reference documents that were
11 designated as either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” under the Stipulated
12 Protective Order in this case (Dkt. No. 61):

- 13 • Plaintiffs’ Motion to Certify Class and associated filings (Dkt. Nos. 133,
14 135, 136, 138-140, 146);
- 15 • Seagate’s Opposition to Plaintiffs’ Motion to Certify Class and associated
16 filings (Corrected Dkt. Nos. 154-156);
- 17 • Plaintiffs’ Reply in Support of Motion to Certify Class (Dkt. No. 158);
- 18 • Plaintiffs’ Administrative Motion to File Under Seal Administrative Motion
19 for Leave to File Plaintiffs’ Supplemental Brief in Support of Class
20 Certification (Dkt. No. 167);
- 21 • Seagate’s Opposition to Plaintiffs’ Administrative Motion for Leave to File
22 Supplemental Brief (Dkt. No. 170);
- 23 • Plaintiffs’ Administrative Motion to File Under Seal and Administrative
24 Motion for Leave to File Plaintiffs’ Second Supplemental Brief in Further
25 Support of Motion for Class Certification (Dkt. No. 175); and
- 26 • Seagate’s Administrative Motion to File Under Seal portions of Seagate’s
27 Opposition to Plaintiffs’ Administrative Motion for Leave to File Second
28 Supplemental Brief (Dkt. No. 178).

1 4. Due to the confidential nature of the information in certain of these documents (the
2 “Confidential Information”), Seagate seeks an order sealing this Confidential Information from the
3 public record. The Confidential Information includes proprietary and commercially sensitive
4 information, from which Seagate derives independent economic value because it is not generally
5 known to the public. Because of the sensitive nature of this information, Seagate takes great
6 efforts to protect the secrecy of the Confidential Information. Indeed, Seagate only produced the
7 Confidential Information in this litigation subject to the Stipulated Protective Order.

8 5. Further, Seagate is bound by various non-disclosure agreements (“NDAs”), which
9 it executes with its Original Equipment Manufacturer (“OEM”) and corporate customers, and
10 which require Seagate to protect the information of these companies. The disclosure of these
11 corporate partners’ and customers’ confidential business information and their interactions with
12 Seagate could be unfairly exploited by Seagate’s competitors to undermine Seagate’s relationships
13 with such companies. This would result in severe financial detriment to Seagate.

14 6. At bottom, Seagate has a compelling reason for desiring that the Confidential
15 Information not to be released to its competitors or the public: namely, because there is a risk of
16 competitive harm should this information be generally known, as discussed in further detail below.

17 **I. PORTIONS OF PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**
18 **SHOULD BE SEALED**

19 **a. Exhibits Attached to the Declaration of Steve W. Berman Should Be Sealed**

20 7. Exhibit 22 is a Decision Brief assembled by Seagate detailing the results of its
21 testing and analysis of an OEM customer’s hard drives. Seagate has executed an NDA with this
22 OEM that requires Seagate to protect the OEM’s information. In this report, Seagate details the
23 analyses it ran, suggests a design change to resolve issues seen with the hard drives in this
24 particular OEM’s environment, and summarizes its communications with its customer. Seagate
25 asks that the Court seal this document in its entirety, attached hereto in its unredacted form as
26 **Exhibit A.**

27 8. Exhibit 23 is an email string, which contains a Consumer Technical Support
28 Weekly Status Report that tracks the status of Seagate’s OEM and corporate customer

1 relationships, and any issues Seagate is responding to with such companies. Seagate uses this
2 report to develop its business and product strategies, including deciding whether to conduct
3 product testing and/or implementing design changes to respond to concerns. Further, as discussed
4 above, Seagate enters into NDAs with its OEMs and business customers. Release of the
5 information in this report could be used by Seagate's competitors to undermine its relationship
6 with OEMs and corporate customers, which would result in financial harm to Seagate.
7 Accordingly, Seagate requests that the Court seal a portion of FED_SEAG0002674-79, as
8 reflected in the versions of Exhibit 23 attached hereto as **Exhibit B**.¹

9 9. Exhibit 24 is a Customer Advocacy report assembled by Seagate that details
10 Seagate's global strategic priorities regarding its reliability and quality control initiatives, and
11 analyzes Seagate's progress on certain initiatives. It also includes information about Seagate's
12 product development for OEM and corporate customers. As discussed above, if this information
13 were to be released, it could be used by Seagate's competitors to influence Seagate's relationships
14 with its corporate customers, which would result in severe financial harm to Seagate. As a result,
15 Seagate requests that the Court seal a portion of the exhibit, as reflected in the versions of Exhibit
16 24 attached hereto as **Exhibit C**.

17 10. Exhibit 26 includes the personal identifying information of Seagate's customers,
18 including their names, phone numbers, and personal email addresses, as well as their emails to
19 Seagate customer service. Accordingly, Seagate requests that the Court seal a portion of the
20 exhibit, as reflected in the versions of Exhibit 26 attached hereto as **Exhibit D**.

21 11. Exhibits 45 and 48 are a Technical Customer Management report and Simple
22 Storage Core Team report, respectively, which outline Seagate's product development focuses and
23 the status of various projects, as well as Seagate's overall product strategy. For example, these
24 reports outline information such as what Seagate perceives to be its products' "Competitive Gaps
25 and Features[,]” its development of OEM and corporate customers' products and projects, and
26 Seagate's "Product Development Testing.” Many of the projects discussed in these reports inform

27 _____
28 ¹ To differentiate from Plaintiffs' highlights, Seagate's proposed new limited redactions are
indicated in orange.

Seagate's long-term business strategy. As a result, in addition to the risk of harm to Seagate's relationships with its corporate clients, the information in these documents could be used by Seagate's competitors to predict Seagate's business strategies. Due to the particular sensitivity of the information in these documents, Seagate requests that the Court seal Exhibits 45 and 48, attached hereto in their unredacted form as **Exhibits E & F**, in their entirety.

b. Portions of the Declaration of Andrew Hospodor Should Be Sealed

12. As admitted in Mr. Hospodor's declaration, his analysis entails a review of, *inter alia*, "Seagate's Drive Development and Manufacturing Process[.]" Seagate's pre-release and post-release product testing procedures, which are used by Seagate to inform product design, and Seagate's internal analysis of its own product failure analysis procedures. The method and process for developing and testing Seagate's hard drives and other products is confidential and proprietary. As a result, this information could be used by Seagate's competitors to predict its business processes and product strategy and extrapolate its proprietary product designs and internal specifications. It also implicates the confidential information of Seagate's corporate clients, which Seagate is bound to protect under various NDAs.

13. Accordingly, the portions of the Hospodor Declaration that reference this information should be sealed. To narrowly tailor its request, Seagate requests that the Court seal only a portion of the Hospodor Declaration, as reflected in the versions attached hereto as **Exhibit G**.

c. Portions of the Memorandum of Points and Authorities Should Be Sealed

14. The portions of Plaintiffs' Motion for Class Certification that reference the Confidential Information described above should be sealed for the same reasons, as reflected in the versions attached hereto as **Exhibit H**.

II. PORTIONS OF SEAGATE'S OPPOSITION SHOULD BE SEALED

a. Portions of the Declaration of Donald Adams Should Be Sealed

16. The first sentence of paragraph 42 and the corresponding Figure 3 on the following page reference Seagate's design goals for cumulative failure probabilities. This reveals an internal strategical decision by Seagate on the failure rates that it demands of its products before release.

1 17. Paragraph 95's (a)-(e) describe the specific technical changes made to Seagate
2 drives as a result of engineering change requests ("ECRs"). This reveals internal decisions by
3 Seagate's engineers on how to modify Seagate drives in response to observed testing behaviors.

4 18. Paragraphs 105 and 106 refers to Seagate employees' interactions with OEMs and
5 their interactions with Seagate. This reveals OEM's specific non-public business strategies and
6 decisions. Failure to keep such information confidential may endanger Seagate's relationship with
7 these customers.

8 19. These specific portions of the Adams Declaration could be used by Seagate's
9 competitors to understand its product approval requirements, predict its product strategy, and
10 interfere with Seagate's relationships with its OEMs. To protect Seagate from the risk of
11 competitive harm that could result from disclosure of such proprietary and commercially sensitive
12 information, Seagate asks that this information be sealed, as reflected in the versions attached
13 hereto as **Exhibit I**.

14 **b. Portions of the Declaration of Patrick Dewey Should Be Sealed**

15 20. Paragraph 36's (a)-(e) describe the specific technical changes made to Seagate
16 drives as a result of engineering change requests (ECRs). This section reveals internal decisions
17 by Seagate's engineers on how to modify Seagate drives in response to observed testing behaviors.
18 Accordingly, Seagate asks that this information be sealed, as reflected in the versions attached
19 hereto as **Exhibit J**.

20 **c. Portions of the Declaration of Harrie Netel Should Be Sealed**

21 21. Paragraph 36 refers to Seagate's specific interactions with two OEM customers in
22 regard to their conversations with Seagate on ORT testing results. This reveals the OEMs'
23 internal business decisions and strategy on whether to issue stop-ships, as well as Seagate's
24 internal discussions with those OEMs. Failure to keep such information confidential may
25 endanger Seagate's relationship with these customers. Accordingly, Seagate asks that this
26 information be sealed, as reflected in the versions attached hereto as **Exhibit K**.

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28

1 d. **Exhibits Attached to the Declaration of Liên H. Payne Should Be Sealed**

2 22. Exhibits 1-5 are Shipping Approval Documents for Grenada drives. These
3 documents provide Seagate's Core Team's justifications for requesting approval to begin shipping
4 drives, including internal testing results, strategy considerations, and engineering decisions on
5 how the drives were modified to reach this approval stage. Seagate's procedure for conducting
6 such analyses has been defined through iteration over time, is confidential and proprietary, and
7 could be copied by Seagate's competitors. Seagate thus requests that the Court seal these
8 documents, attached hereto in their unredacted form as **Exhibits L, M, N, O, and P**, in their
9 entirety.

10 23. Exhibit 6 is an internal draft document regarding Seagate's internal strategy on
11 reliability goals for drives sold to OEMs. This document outlines Seagate's benchmarks, internal
12 testing procedures, and strategy in how to increase reliability for drives sold to OEMs. Seagate
13 thus requests that the Court seal this document, attached hereto in its unredacted form as **Exhibit**
14 **Q**, in its entirety.

15 24. Exhibits 7 and 9 should be sealed as to the names of Seagate's OEM customers.
16 Disclosing such identities will hurt Seagate's competitiveness by disclosing Seagate's key
17 customers and those customers' business decisions to request ship holds, which Seagate's OEMs
18 expect Seagate to keep confidential. Failure to keep such information confidential may endanger
19 Seagate's relationship with these customers. To narrowly tailor its sealing request, Seagate has
20 redacted only those portions of the exhibits that implicate such concerns, as reflected in the
21 versions attached hereto as **Exhibits R and S**.

22 25. Exhibit 15 is an internal Seagate document on projecting failure rates for GoFlex
23 Turbo drives sold to OEMs. As part of its analysis, this document lists non-public information of
24 the OEMs, including the number of drives sold to the OEMs, their profit margins, their return
25 rates, and costs. Failure to keep such information confidential may endanger Seagate's
26 relationship with these customers. Seagate thus requests that the Court seal this document,
27 attached hereto in its unredacted form as **Exhibit T** in its entirety.

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1 **III. PORTIONS OF PLAINTIFFS' REPLY SHOULD BE SEALED**

2 a. **An Exhibit Attached to the Declaration of Steve W. Berman Should Be Sealed**

3 26. Exhibit 57 is a Shipping Approval Document for Grenada BP2 drives. This
 4 document provides Seagate's Core Team's justifications for requesting approval to begin shipping
 5 drives, including internal testing results, strategy considerations, and engineering decisions on
 6 how the drives were modified to reach this approval stage. Seagate's procedure for conducting
 7 such analysis has been defined through iteration over time, is confidential and proprietary, and
 8 could be copied by Seagate's competitors. Seagate thus requests that the Court seal this
 9 document, attached hereto in its unredacted form as **Exhibit U**, in its entirety.

10 b. **Portions of the Rebuttal Declaration of Andrew Hospodor Should Be Sealed**

11 27. The Hospodor Rebuttal Declaration references the confidential information of
 12 Seagate's OEM and business clients, which Seagate is bound to protect under various NDAs.

13 28. This information could be used by competitors to undermine Seagate's
 14 relationships with these clients, which would result in competitive and financial harm to Seagate.

15 29. Accordingly, the portions of the Hospodor Declaration that reference these
 16 corporate clients should be sealed. To narrowly tailor its request, Seagate requests that the Court
 17 seal only a portion of the Hospodor Rubuttal Declaration, as reflected in the versions attached
 18 hereto as **Exhibit V**.

19 c. **Portions of the Reply Should Be Sealed**

20 30. The portions of Plaintiffs' Reply in Support of Plaintiffs' Motion for Class
 21 Certification that reference the above-described Confidential Information should be sealed for the
 22 same reasons set forth above, as reflected in the proposed redacted version of the Reply, as
 23 reflected in the versions attached hereto as **Exhibit W**.

24 **IV. PORTIONS OF PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE**
 25 **SUPPLEMENTAL BRIEF SHOULD BE SEALED**

26 a. **Exhibits Attached to the Declaration of Steve W. Berman Should Be Sealed**

27 31. Exhibit 63 and 65 are documents analyzing the failures of Seagate drives owned by
 28 two its corporate customers. Such information reflects the manner in which Seagate tests its

1 drives, as well as confidential communications with large corporate customers subject to a
 2 confidentiality agreement. Seagate thus requests that the Court seal these documents, attached
 3 hereto in their unredacted form as **Exhibits X and Y**, in their entirety.

4 32. Exhibit 66 is a Decision Brief analyzing how to respond to failures reported by two
 5 of Seagate's corporate customers. This documents reveals Seagate's internal strategy on how to
 6 respond to those customers' concerns, including discussion of how to handle relations with the
 7 customer and how to communicate with the customers regarding the failures. Seagate thus
 8 requests that the Court seal this document, attached hereto in its unredacted form as **Exhibit Z**, in
 9 its entirety.

10 33. Exhibit 67 is an email chain between Seagate employees discussing how to respond
 11 to certain OEMs' requests for replacement drives and what data Seagate provides to OEMs.
 12 Seagate thus requests that the Court seal this document, attached hereto in its unredacted form as
 13 **Exhibit AA**, in its entirety.

14 34. Exhibits 70 and 71 are internal Seagate documents analyzing a request by a large
 15 corporate customer to replace some of its Seagate drives. This document reveals Seagate's
 16 internal strategy in how to respond to the customer's concerns. In addition, the document includes
 17 data from Apple, which is subject to a confidentiality agreement. Seagate thus requests that the
 18 Court seal these documents, attached hereto in their unredacted form as **Exhibits BB and CC**, in
 19 their entirety.

20 **b. Portions of the Plaintiffs' Supplemental Brief in Support of Class Certification**
 21 **Should Be Sealed**

22 35. In Plaintiffs' proposed Supplemental Brief, Plaintiffs name several large corporate
 23 customers of Seagate as well as those customers' internal data and private communications with
 24 Seagate regarding drive concerns. Revealing Seagate's key customers' identities, internal data,
 25 and communications with Seagate will result in competitive harm to Seagate and violate
 26 confidentiality agreements with those customers. To narrowly tailor its sealing request, Seagate
 27 has redacted only those portions of the brief that implicate such concerns, as reflected in **Exhibit**
 28 **DD**, attached hereto.

**V. PORTIONS OF SEAGATE’S OPPOSITION TO PLAINTIFFS’
ADMINISTRATIVE MOTION TO FILE SUPPLEMENTAL BRIEF SHOULD BE
SEALED**

36. For the same reasons listed above, the portions of Seagate’s brief referencing Seagate’s corporate customers should be sealed. To narrowly tailor its sealing request, Seagate has redacted only those portions of the opposition brief that implicate such concerns, as reflected in **Exhibit EE**, attached hereto.

**VI. PORTIONS OF PLAINTIFFS’ ADMINISTRATIVE MOTION TO FILE SECOND
SUPPLEMENTAL BRIEF SHOULD BE SEALED**

a. Exhibits Attached to the Declaration of Shana Scarlett Should Be Sealed

37. Exhibit 73 is a set of meeting notes that disclose the results of Seagate’s global market testing and analysis, and outline potential marketing concepts and strategies. Seagate uses this information to guide its business and marketing strategy. If this information were disclosed, it could be used by Seagate’s competitors to predict Seagate’s strategies, which could result in competitive harm to Seagate. Seagate thus requests that the Court seal this document, attached hereto in its unredacted form as **Exhibit FF**, in its entirety.

38. Exhibit 76 is an internal email chain between Seagate employees discussing Seagate’s efforts to obtain drives on which to perform product testing and failure analysis as a function of Seagate’s product improvement efforts. The email chain also discloses the results of, and pending, product testing for various other products not at issue in this litigation. In addition to disclosing Seagate’s confidential information, this document discloses the confidential data of Seagate’s current and former business customers—with which Seagate has entered into various NDAs—including its product strategy, testing, and development efforts. Accordingly, Seagate requests that the Court seal a portion of Exhibit 76, as reflected in the redacted version attached hereto as **Exhibit GG**.

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b. **Portions of the Plaintiffs' Second Supplemental Brief in Support of Class Certification Should Be Sealed**

39. The portions of the Second Supplemental Brief that reference the confidential information in the exhibits to the Scarlett Declaration should be sealed for the same reasons set forth above. To narrowly tailor its sealing request, Seagate has redacted only those portions of the brief that implicate such concerns, as reflected in **Exhibit HH**, attached hereto.

VII. AN EXHIBIT TO THE RODEWALD DECLARATION IN SUPPORT OF SEAGATE'S OPPOSITION TO PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE SECOND SUPPLEMENTAL BRIEF SHOULD BE SEALED

40. Exhibit 1 to the Rodewald Declaration is a chart responding to Exhibit 72 to the Scarlett Declaration, discussed above. In responding to Plaintiffs' chart, Exhibit 1 discloses some of this same information, which Seagate seeks to seal for the same reasons. Accordingly, Seagate requests that the Court seal a portion of Exhibit 1, as reflected in the redacted version attached hereto as **Exhibit II**.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this 26th day of July, 2018, in Cupertino, California.



Sek Nam "Allen" Ng

ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I, Joy O. Siu, attest that the signatory of this document, and on whose behalf the filing is submitted, concurs with the filing's content and has authorized the filing.

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Joy O. Siu
JOY O. SIU

Attorneys for SEAGATE TECHNOLOGY LLC